

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs February 7, 2008

CHRISTOPHER ERIK CLICK v. SHAWN SHERREE DEAN CLICK

**Appeal from the General Sessions Court for Wilson County
No. 13001DVC Robert P. Hamilton, Judge**

No. M2006-02217-COA-R3-CV - Filed April 7, 2008

This appeal concerns the custodial and financial determinations upon the dissolution of a twelve-year marriage. The trial court designated Mother the primary residential parent of the couple's two minor children, set child support, and made a division of the marital property, which largely consisted of a debt owed to Father's parents. However, the trial court declined to make an allocation of the parties' debt to the Internal Revenue Service. Both parties present issues on appeal. Finding no error, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the General Sessions Court Affirmed

FRANK G. CLEMENT, JR., J., delivered the opinion of the court, in which PATRICIA J. COTTRELL, P.J., M.S., and RICHARD H. DINKINS, J., joined.

Shawn J. McBrien, Lebanon, Tennessee, for the appellant, Christopher Erik Click.

Jeffrey Spark, Nashville, Tennessee, for the appellee, Shawn Sherree Dean Click.

MEMORANDUM OPINION¹

Christopher Erik Click (Father) and Shawn Sherree Dean Click (Mother) were married on June 20, 1992. Two children were born of their marriage, the first on December 21, 1992, and the second on April 6, 2000.

After twelve years of marriage, Father filed a Complaint for Divorce on March 29, 2004. Mother filed her Answer and Counter-Complaint on May 4, 2004. During the pendency of the divorce proceedings, the parties filed numerous motions, none of which are at issue in this appeal.

¹Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

The trial took place over the course of five days in three months, was extremely bitter, and focused almost solely on the custody of the children. However, there were two issues for the trial court to consider: (1) custody/primary residence of the parties' two minor children; and (2) division of marital assets and debts.

During the trial, both parties took exception to the other's parenting skills. Mother testified that Father drank to excess, suffered from depression, and was violent and quick to anger. Father, on the other hand, testified that Mother was manipulative and lied.

The parties had very little marital property, other than debt, and no real property. The parties' debt apparently resulted from the failure to pay employee taxes on the business, Click Carpentry, that they operated during the marriage. As a result of the failure to pay these employee taxes, Father's parents loaned the parties money. Additionally, the parties had an outstanding tax obligation and had failed to file tax returns with the IRS.

In the trial court's Final Order, Mother was awarded primary residential placement of the two minor children based on "Father's anger management issues." The trial court also awarded Father residential time, set child support to be calculated based on Mother's income of \$42,120 per year and Father's income of \$20,000 per year, and made a division of the limited marital property. In allocating the debt to Father's parents, the trial court stated that "[t]he Court does not order the Mother to pay the Father's debt to his parents. . . . and makes no decision on income tax debts, but leaves such up to the Internal Revenue Service."

Both parties present issues for our review. First, both parties contend the trial court erred in failing to make a determination as to how the Internal Revenue Service debt would be divided. Second, Father raises two other issues: (1) whether the trial court erred in designating Mother as the primary residential parent of the parties' minor children; and (2) whether the trial court erred in holding Father solely responsible for the debt to Father's parents. Finally, Mother raises the issue of whether the trial court erred in determining Father's annual income for the purposes of calculating child support.

As to the first issue, both parties contend that the trial court erred in not allocating the Internal Revenue Service debt. The parties' failure to file tax returns or to maintain decipherable financial records, and Father's commingling of his business and personal checking account and finances rendered it implausible for the trial court to make specific findings as to the parties' respective tax obligations. In the trial court's ruling on the tax issue, it noted that the tax notices from the Internal Revenue Service were addressed only to Christopher E. Click. As Mother's counsel explained, the notices were sent to Father because "he was sole proprietor of Click Carpentry" and that the tax obligations at issue were "business tax debts." Based on the uncertainty of the Internal Revenue Service debt obligation, the tax notices only being addressed to Father, the trial court's comments at trial and its resulting ruling, we construe the trial court's ruling to provide that: (1) Father would be liable for all tax obligations related to his business, Click Carpentry, and for any other tax bills addressed solely to Father, (2) Mother would be liable for the taxes for which the IRS holds her individually liable, and (3) both parties would be jointly and severally liable for any tax obligation the IRS deems to be a joint obligation. Considering the scarce and uncertain facts

the parties provided to the trial court, we find no error with the trial court's decision to hold each party individually liable for their respective tax obligations and to hold them jointly and severally liable for those obligations the IRS deems to be joint obligations.

For his next issue, Father contends the trial court erred in holding him solely responsible for the debt to his parents. Mother does not dispute that Click Carpentry is Father's sole proprietorship. The trial court agreed and awarded Click Carpentry solely to Father. Implicit in the trial court's ruling is that all debts of Click Carpentry would also become the responsibility of Father. The evidence in the record and the testimony of the parties shows that the proceeds from Father's parents' loan were deposited in the Click Carpentry account, presumably for the benefit of the business. The trial court found it equitable in dividing the marital estate to award the sole proprietorship, including its debts, to Father. Trial courts have wide latitude in fashioning an equitable division of marital property, *Fisher v. Fisher*, 648 S.W.2d 244, 246 (Tenn. 1983) and this court accords great weight to the trial court's division of marital property. *Wilson v. Moore*, 929 S.W.2d 367, 372 (Tenn. Ct. App. 1996). Thus, we find no error in the division of the marital debts and assets.

Father also contends on appeal that the trial court erred in designating Mother the primary residential parent. According to the Final Order, the trial court made the primary residential parent decision by comparison of the Father and Mother pursuant to the criteria specified in Tenn. Code Ann. § 36-6-106. Specifically, the trial court noted "Father's anger management issues giving rise to a decision not hard for the Court to make." Having considered the arguments raised by Father on appeal and the record before us, we find no error with the trial court decision designating Mother as the primary residential parent.

Lastly, Mother contends the trial court erred in determining Father's annual income and that the court should impute to Father an annual income of \$36,369.00. We, however, find that the evidence in the record does not preponderate against the finding of the trial court. Therefore, we affirm the trial court's finding that Father's income is \$20,000 annually for purposes of calculating child support.

The judgment of the trial court is affirmed, and this matter is remanded with costs of appeal assessed against the parties equally.

FRANK G. CLEMENT, JR., JUDGE